

**SUMTER COUNTY BOARD OF COMMISSIONERS
EXECUTIVE SUMMARY**

SUBJECT: Stipulated Final Judgment Concerning Parcels 101, 101-A, 102, 103, 104 and 105

REQUESTED ACTION: Staff recommends approval

☐ Work Session (Report Only) **DATE OF MEETING:** 10/26/2010
☒ Regular Meeting ☐ Special Meeting

CONTRACT: ☒ N/A

Effective Date: _____

Managing Division / Dept: _____

Vendor/Entity: _____

Termination Date: _____

Support Services/County Administration

BUDGET IMPACT: \$94,083.50

☐ Annual

☒ Capital

☐ N/A

FUNDING SOURCE:

Impact Fees-Purchase of Right-of-ways

EXPENDITURE ACCOUNT:

153-342-541-6101

HISTORY/FACTS/ISSUES:

The respondent is Turkey Run 2, LLC, a Florida limited liability company, et al.

On May 27, 2009, the County filed its petition for the purpose of acquiring Parcels 101, 101-A, 102, 103, 104 and 105 through eminent domain action. In accordance with the Court's August 10, 2009 Order of Taking Concerning Parcels 101, 101-A, 102, 103, 104 and 105, the County timely deposited \$77,050.00 in court registry concerning Parcels 101, 101-A, 102, 103, 104 and 105 on or about August 21, 2009.

Within 30 days from the date of this judgment, the County shall deposit the amount of \$54,950.00 into the court registry (in addition to the \$77,050.00 previously deposited), in full and complete settlement and satisfaction of any and all claims concerning Parcel 131.

Within 30 days from the date of this judgment, the County shall also pay the total amount of \$5,787.54 in full and complete satisfaction of any and all reasonable monetary and non-monetary attorney's fees concerning Parcels 101, 101-A, 102, 103, 104 and 105.

Within 30 days from the date of this judgment, the County shall also pay the total amount of \$18,133.50 in full and complete satisfaction of any and all reasonable monetary and non-monetary attorney fees and costs resulting from any disputed apportionment proceedings. The amount shall be payable to Wilson, Garber, Small, P.A. c/o J. Christy Wilson, III, Esquire, 437 N Magnolia Avenue, Orlando, FL 32801-1524.

Within 30 days from the entry of this Stipulated Final Judgment, the County shall pay the total amount of \$21,000.00 in full and complete satisfaction of any and all reasonable expert fees and costs and attorney's costs concerning Parcels 101, 101-A, 102, 103, 104 and 105

Upon depositing any paying the foregoing amounts, the County shall be deemed to own a fee simple right of way in Parcels 101, 101-A, 102, 103, 104 and 105, and shall have fully and completely satisfied any and all pending claims in this case concerning these parcels.

IN THE CIRCUIT COURT FOR SUMTER COUNTY, FLORIDA

SUMTER COUNTY, FLORIDA,)	
)	CASE NO. 2009 CA 000467
Petitioner,)	
vs.)	PARCELS: 101, 101-A, 102,
)	103, 104 & 105
TURKEY RUN 2, LLC, a Florida limited)	
liability company, et al.,)	
)	
Respondents.)	
_____)	

STIPULATED FINAL JUDGMENT
CONCERNING PARCELS 101,101-A, 102, 103, 104 AND 105

THIS CAUSE came to be considered pursuant to the attached Joint Motion to Enter Stipulated Final Judgment Concerning Parcels 101, 101-A, 102, 103, 104 and 105, filed by Petitioner Sumter County (the "County") and Respondent Turkey Run 2, LLC ("Respondent"). Upon reviewing the motion and the file, and being otherwise fully advised in the premises, the Court

ORDERED AND ADJUDGED:

1. The parties have reached a settlement of disputed claims, and their attached Joint Motion to Enter Stipulated Final Judgment Concerning Parcels 101, 101-A, 102, 103, 104 and 105 is hereby **GRANTED**.

2. On or about May 27, 2009, the County filed its petition for the purpose of acquiring Parcels 101, 101-A, 102, 103, 104 and 105 through eminent domain action. In accordance with the Court's August 10, 2009 Order of Taking Concerning Parcels 101, 101-A, 102, 103, 104 and 105, the County timely deposited the total sum of \$77,050.00 in the court registry concerning Parcels 101, 101-A, 102, 103, 104 and 105 on or about August 21, 2009.

3. Within 30 days from the date of this judgment, the County shall deposit the amount of \$54,950.00 into the court registry (which amount is in addition to the \$77,050.00

previously deposited), in full and complete settlement and satisfaction of any and all claims concerning Parcels 101, 101-A, 102, 103, 104 and 105, including but not limited to land and improvements taken, severance damages, business or special damages, interest, and subject to any claims for apportionment.

4. Within 30 days from the date of this judgment, the County shall also pay the total amount of \$18,133.50 in full and complete satisfaction of any and all reasonable monetary and non-monetary attorney's fees concerning Parcels 101, 101-A, 102, 103, 104 and 105, exclusive of any claims for (a) attorney's fees and costs resulting from any disputed apportionment proceedings. This amount shall be payable to Wilson, Garber & Small, P.A. c/o J. Christy Wilson, III, Esquire, 437 N. Magnolia Avenue, Orlando, Florida 32801-1524.

5. Within 30 days from entry of this Stipulated Final Judgment, the County shall pay the total amount of \$21,000.00 in full and complete satisfaction of any and all reasonable expert fees and costs and attorneys' costs concerning Parcels 101, 101-A, 102, 103, 104 and 105. This amount shall be payable to the Trust Account of Wilson, Garber & Small, P.A. c/o J. Christy Wilson, III, Esquire, 437 N. Magnolia Avenue, Orlando, Florida 32801-1524.

6. Upon depositing and paying the foregoing amounts, the County shall be deemed to own a fee simple right of way in Parcels 101, 101-A, 102, 103, 104 and 105, and shall have fully and completely satisfied any and all pending claims in this case concerning Parcels 101, 101-A, 102, 103, 104 and 105, including but not limited to the order of taking, full compensation, land and improvements taken, severance damages, business and special damages, any other type of damages recoverable in eminent domain, interest, the value of any liens, leases, encumbrances, options, or contracts, all pending motions, apportionment claims and all compensable legal expenses, including reasonable monetary and non-monetary attorney's fees and costs and expert fees and costs.

7. Any withdrawal and/or apportionment of funds deposited in the court registry concerning Parcel 131 shall be done in accordance with Sections 73.101 and 73.141, Florida Statutes.

8. The Court reserves jurisdiction to determine any requests to withdraw and/or apportion funds, and/or (b) any claims for attorney's fees and costs resulting from any disputed apportionment proceedings.

DONE and ORDERED in Chambers, Bushnell, Sumter County, Florida this _____ day of _____, 20____.

William Hallman, III
Circuit Judge

I hereby certify that a true and correct copy of the above and foregoing has been furnished to each of the following named addresses by regular U.S. Mail on this _____ day of _____, 20____.

J. Christy Wilson, III, FBN
Wilson, Garber & Small, P.A.
437 N. Magnolia Avenue
Orlando, FL 32801-1524
Attorneys for Respondents

Vivian Arenas-Battles, Esquire
P.O. Box 2350
Tampa, FL 33601-2350
Attorney for Sumter County

Felix M. Adams, Esquire
138 Bushnell Plaza
Suite 201, Bushnell, FL 33513
Attorney for Tom Swain, Tax Collector

City National Bank of Florida,
c/o Any Officer and/or Director
15 West Flagler Street
Miami, FL 33130

Kenneth Bobiak - Tenant
5869 E CR 462
Wildwood, FL 34785

Dawn Titus - Tenant
5869 E CR 462
Wildwood, FL 34785

Tom Henry Newman, Jr. - Tenant
5905 E CR 462
Wildwood, FL 34785

Lakisha Wilcher - Tenant
5945 E CR 462
Wildwood, FL 34785

Tom Newman, III - Tenant
5977 E CR 462
Wildwood, FL 34785

Sarah Roop - Tenant
5977 E CR 462
Wildwood, FL 34785

Judicial Assistant

**JOINT MOTION TO ENTER STIPULATED FINAL JUDGMENT
CONCERNING PARCELS 101, 101-A, 102, 103, 104 AND 105**

Petitioner Sumter County, Florida and Respondent Turkey Run 2, LLC, by and through their undersigned attorneys, hereby stipulate to, and move the Court to enter, the foregoing Stipulated Final Judgment Concerning Parcels 101, 101-A, 102, 103, 104 and 105.

Vivian Arenas-Battles, FBN 606261
David M. Caldevilla, FBN 654248
de la Parte & Gilbert, P.A.
Post Office Box 2350
Tampa, Florida 33601-2350
Telephone: (813)229-2775
COUNSEL FOR SUMTER COUNTY

J. Christy Wilson, III, Esquire, FBN 326161
Wilson, Garber & Small, P.A.
437 N. Magnolia Avenue
Orlando, Florida 32801-1524
Telephone (407) 843-4321
COUNSEL FOR RESPONDENT

Date: _____

Date: 10/20/2010

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing has been furnished to each of the following named addresses by ☐ regular U.S. Mail and/or ☐ facsimile or ☐ hand delivery on this _____ day of _____, 20__.

J. Christy Wilson, III, FBN
Wilson, Garber & Small, P.A.
437 N. Magnolia Avenue
Orlando, FL 32801-1524
Attorneys for Respondents

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